

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MIDWEST INDUSTRIAL SUPPLY, INC.)	CASE NO.: 5:08 CV 1374
)	)
Plaintiff	)
)	JUDGE SOLOMON OLIVER, JR.
vs.	)
)	)
SOILWORKS, LLC,	)
)	<u>NOTICE:</u>
Defendant	<u>CASE MANAGEMENT CONFERENCE</u>

This case is subject to the provisions of LR 16.1 of the Local Rules of the Northern District of Ohio entitled Differentiated Case Management (DCM). All counsel are expected to familiarize themselves with the Local Rules as well as with the Federal Rules of Civil Procedure. The Court shall evaluate this case in accordance with LR 16.1 and assign it to one of the case management tracks described in LR 16.2(a). Each of the tracks (expedited, standard, complex, mass tort and administrative) has its own set of guidelines and time lines governing discovery practice, motion practice and for trial. Discovery shall be guided by LR 26.1 et seq. and motion practice shall be guided by LR 7.1(b)-(j) et seq.

**SCHEDULING OF CASE MANAGEMENT CONFERENCE**

All counsel and/or parties will take notice that the above-entitled action has been set for a Case Management Conference ("CMC"), on August 15, 2008 at 1:00 p.m. before Judge Solomon Oliver, Jr., Chambers 17A, Carl B. Stokes United States Court House, 801 W. Superior Avenue, Cleveland, Ohio.

Local Rule 16.3(b) requires the attendance of both parties and lead counsel. "Parties" means either the named individuals or, in the case of a corporation or similar legal entity, that person who is most familiar with the actual facts of the case. "Party" does not mean in-house counsel or

someone who merely has "settlement authority." If the presence of a party or lead counsel will constitute an undue hardship, a written motion to excuse the presence of such person must be filed well in advance of the CMC.

**TRACK RECOMMENDATION**

Pursuant to LR 16.3(a), and subject to further discussion at the CMC, the Court recommends the following track:

- Expedited       Standard       Administrative  
 Complex       Mass Tort  
 Recommendation reserved for CMC.

**APPLICATION OF FED. R. CIV. P. 26(a)**

Rule 26(a) of the Federal Rules of Civil Procedure, as amended December 1, 1993, mandates a series of required disclosures by counsel in lieu of discovery requests unless otherwise stipulated or directed by order of the Court or by local rule.

In the above-entitled case, Rule 26(a) shall apply as follows:

- All disclosures mandated by Rule 26(a) shall apply, including Initial Disclosures (Rule 26(a)(1)), Disclosure of Expert Testimony (Rule 26(a)(2)), and Pre-Trial Disclosures (Rule 26(a)(3)).
- Initial Disclosures (Rule 26(a)(1)) shall not apply; Disclosure of Expert Testimony (Rule 26(a)(2)) and Pre-Trial Disclosures (Rule 26(a)(3)) shall apply.

**CONSENT TO JURISDICTION OF MAGISTRATE JUDGE**

Magistrate Judge Baughman been assigned to assist in this case. The parties are encouraged to discuss and consider consenting to the jurisdiction of the Magistrate Judge.

**PREPARATION FOR CMC BY COUNSEL**

The general agenda for the CMC is set by LR 16.3(b). Counsel for the plaintiff shall arrange with opposing counsel for the meeting of the parties as required by Fed. R. Civ. P. 26(f) and LR 16.3(b). A report of this planning meeting shall be jointly signed and submitted to the Clerk for filing not less than 3 days before the CMC. The report shall be in a form substantially similar to Attachment 1.

**FORMAL DISCOVERY STAYED UNTIL CMC**

Pursuant to LR 26.2, counsel are reminded that no preliminary formal discovery may be conducted prior to the CMC except "such discovery as is necessary and appropriate to support or defend against any challenge to jurisdiction or claim for emergency, temporary, or preliminary relief[.]" This limitation in no way affects any disclosure required by Fed. R. Civ. P. 26(a)(1) or by this order.

**FILING OF DISCOVERY MATERIALS**

Unless otherwise ordered by the Court, initial disclosures, discovery depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall **not** be filed with the Clerk's Office, except that discovery materials may be filed as evidence in support of a motion or for use at trial.

**OTHER DIRECTIVES**

It is the responsibility of counsel for the plaintiff(s) to verify that a copy of this Order has been received by counsel for defendant(s) or, if no counsel has entered an appearance for defendant(s), that it has been received by defendant(s) themselves.

**RESOLUTION PRIOR TO CMC**

In the event that this case is resolved prior to the CMC, counsel should submit a jointly signed stipulation of settlement or dismissal, or otherwise notify the Court that the same is forthcoming.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR. \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

July 11, 2008

**ATTACHMENT 1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

	)	Case No.:
	)	
Plaintiff	)	JUDGE
	)	
v.	)	<u>REPORT OF PARTIES' PLANNING</u>
	)	<u>MEETING UNDER FED. R. CIV.</u>
	)	<u>P. 26(f) AND L.R. 16.3(b)</u>
Defendant	)	

1. Pursuant to Fed. R. Civ. P. 26(f) and L.R. 16.3(b), a meeting was held on

\_\_\_\_\_, 200\_\_, and was attended by:

\_\_\_\_\_ counsel for plaintiff(s) \_\_\_\_\_

\_\_\_\_\_ counsel for plaintiff(s) \_\_\_\_\_

\_\_\_\_\_ counsel for defendant(s) \_\_\_\_\_

\_\_\_\_\_ counsel for defendant(s) \_\_\_\_\_

2. The parties:

\_\_\_\_\_ have exchanged the pre-discovery disclosures required by Rule 26(a)(1) and the  
Court's prior order;

\_\_\_\_\_ will exchange such disclosures by \_\_\_\_\_, 200\_\_;

\_\_\_\_\_ have not been required to make initial disclosures.

3. The parties recommend the following track:

\_\_\_\_\_ Expedited                      \_\_\_\_\_ Standard                      \_\_\_\_\_ Complex  
\_\_\_\_\_ Administrative                      \_\_\_\_\_ Mass Tort

4. This case is suitable for one or more of the following Alternative Dispute Resolution ("ADR") mechanisms:

\_\_\_\_\_ Early Neutral Evaluation                      \_\_\_\_\_ Mediation                      \_\_\_\_\_ Arbitration  
\_\_\_\_\_ Summary Jury Trial                      \_\_\_\_\_ Summary Bench Trial  
\_\_\_\_\_ Case not suitable for ADR

5. The parties \_\_\_\_\_do/\_\_\_\_\_ do not consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

6. Recommended Discovery Plan:

(a) Describe the subjects on which discovery is to be sought and the nature and extent of discovery.

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(b) Discovery cut-off date: \_\_\_\_\_

7. Recommended dispositive motion date: \_\_\_\_\_

8. Recommended cut-off date for amending the pleadings and/or adding additional parties:

9. Recommended date for a Status Hearing: \_\_\_\_\_

10. Other matters for the attention of the Court:

\_\_\_\_\_

Attorney for Plaintiff(s) \_\_\_\_\_

\_\_\_\_\_

Attorney for Plaintiff(s) \_\_\_\_\_

\_\_\_\_\_

Attorney for Defendant(s) \_\_\_\_\_

\_\_\_\_\_

Attorney for Defendant(s) \_\_\_\_\_